

**EASTERN DISTRICT OF TEXAS**



CIVIL ACTION NO. 1:06-CV-151

Defendants.

After careful consideration, the court concludes Plaintiff's objections are without merit. Plaintiff has failed to produce evidence precluding summary judgment. Plaintiff's live pleadings are not sworn affidavits nor are they made under the penalty of perjury. Unsworn affidavits not made "under the penalty of perjury" are not competent summary judgment evidence. *Nissho-Iwai*

*American Corp. v. Kline*, 845 F.2d 1300, 1306 (5th Cir. 1988). Accordingly, the defendants' motion for summary judgment should be granted.

**ORDER**

Accordingly, Plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. It is therefore

**ORDERED** that the defendants' motion for summary judgment is **GRANTED**. A final judgment shall be entered in accordance with this memorandum.

SIGNED at Beaumont, Texas, this 22nd day of September, 2010.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE